

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TROY COVEY

Plaintiff,

v.

BUZZFEED INC. and DOES 1 through
10 inclusive.,

Defendant(s).

Case No. _ 1:23-cv-2447

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff, Troy Covey alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101, *et seq.*

2. This court has personal jurisdiction over Defendant(s)' because Defendant(s)' actions alleged herein occurred in the state of New York, were directed towards a resident of the state of New York, Defendant(s) caused injury to Plaintiff within the state of New York, and Defendant(s) have a physical presence in the state of New York.

3. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)-(d) and/or 28 U.S.C. § 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred, Defendant(s) reside in or

can be found in this district, Defendant(s) conduct regular and substantial business in this district and/or is a corporate defendant whose contacts with this district are sufficient to subject it the personal jurisdiction of this Court.

PARTIES

4. Plaintiff Troy Covey is an individual and professional photographer.

Defendant Buzzfeed Inc. (“Buzzfeed”) is a Delaware limited liability company with its principal place of business in New York. Buzzfeed has one or more offices and employees in New York, has conducted regular and substantial business throughout New York including this judicial district, and has transacted business with many individuals or businesses residing throughout New York including this judicial district.

5. Plaintiff is unaware of the true names and capacities of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, sues such Defendants under such fictitious names. Plaintiff is informed and believes and on that basis alleges that such fictitiously named Defendants are responsible in some manner for the occurrences herein alleged, and that Plaintiff’s damages as herein alleged were proximately caused by the conduct of said Defendants. Plaintiff will seek to amend the complaint when the names and capacities of such fictitiously named Defendants are ascertained.

FACTUAL ALLEGATIONS

6. Troy Covey is a successful commercial beauty photographer.
7. Covey's client list includes Lune + Aster, Briogeo, Clinique, Target, Peloton, Versed Skincare, e.l.f., and *SHAPE Magazine*.
8. A portfolio of Covey's work is available for viewing by the general public through his website www.troycovey.com.
9. Covey is the sole creator and exclusive rights holder to a close up beauty photograph of a model using skincare products (the "Beauty Photograph").
10. Attached hereto as Exhibit A is a true and correct copy of the Beauty Photograph.
11. Covey has registered the Beauty Photograph with the United States Copyright Office under registration number VAu 1-349-196.
12. BuzzFeed is an internet and entertainment media company that covers a wide variety of subjects including celebrities, fashion, food, and film and television. *See generally* www.buzzfeed.com.
13. BuzzFeed partners with brands to promote and advertise various products through their articles and other interactive posts and each page contains extensive advertisement through either direct links or via banner and side advertisements. *Id.*
14. Defendant BuzzFeed is and was at all relevant times the owner and operator of the website www.buzzfeed.com ("Website").

15. On information and belief, Defendant's Website generates content that promotes its products, services, and to attract user traffic to Defendant's Website and generate business for the company.

16. At all relevant times, the Defendant's Website was readily accessible to the general public throughout New York, the United States, and the world.

17. On or about August 8, 2022, Covey discovered his Beauty Photograph being displayed on the Defendant's Website in an article titled "38 Products That'll Probably Make A Difference In Your Day-To-Day" ("Infringing Post").

18. True and correct screenshots of the Beauty Images being displayed with the Infringing Posts are attached hereto as Exhibit B.

19. Covey, through counsel, subsequently made several attempts to resolve this matter directly with Defendant, but the Parties were unable to come to a resolution.

20. Covey has never at any point given BuzzFeed a license or other permission to display, distribute or otherwise use the Beauty Photograph on Defendant's Website or on any other website or platform.

21. BuzzFeed (including its employees, agents, contractors or others over whom it has responsibility and control) copied and uploaded the Beauty Photograph to the Defendant's Website without Covey's consent or authorization.

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CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 .S.C. § 101 *et seq.*

22. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

23. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of the unique and original Beauty Photograph.

24. Plaintiff is informed and believes and thereon alleges that the Defendant(s) willfully infringed upon the copyrighted Beauty Photograph in violation of Title 17 of the U.S. Code, in that it used, published, communicated, posted, publicized, and otherwise held out to the public for commercial benefit, the original and unique Beauty Photograph without Plaintiff's consent or authority, by using it in the Infringing Post on Defendant's Website.

25. As a result of Defendant(s)' violations of Title 17 of the U.S. Code, Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to \$150,000 pursuant to 17 U.S.C. § 504(c).

26. As a result of the Defendant(s)' violations of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant(s).

27. Plaintiff is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant(s) as follows:

- a) For a finding that Defendant(s) infringed Plaintiff's copyright interest in the Beauty Photograph by copying and displaying it for commercial purposes without a license or consent;
- b) For an award of actual damages and disgorgement of all of Defendant(s)' profits attributable to the infringement as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for statutory damages against Defendant(s) in an amount up to \$150,000 for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;
- c) For an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant(s) from any infringing use of any of Plaintiff's copyrighted works;
- d) For costs of litigation and reasonable attorney's fees against Defendant(s) pursuant to 17 U.S.C. § 505;
- e) For pre- and post-judgment interests as permitted by law; and
- f) For any other relief the Court deems just and proper.

DATED: March 22, 23

Respectfully submitted,

s/ Taryn Rose Murray
Taryn Rose Murray, Esq.
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Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff Troy Covey, hereby demands a trial by jury in the above matter.

DATED: March 22, 23

Respectfully submitted,

s/ Taryn Rose Murray
Taryn Rose Murray, Esq.
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